IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

OP.No. 28521 of 2001(U)

PETITIONER:

JOHN CORREYA @ JOHNIE CORREYA,
S/O. PETER CORREYA,
AMBAT HOUSE, S.R.M.ROAD, EXTENSION,
PACHALAM.P.O., KOCHI – 12.

BY ADV. SRI.P.T.JOSE

RESPONDENTS:
---

1. KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD.,
REPRESENTED BY ITS SECRETARY, KESTON ROAD, KOWDIAR,
THIRUVANANTHAPURAM – 695 003.

2. THE DEPUTY TAHSILDAR (R.R.),
ERNAKULAM.

3. THE VILLAGE OFFICER (R.R.),
ERNAKULAM VILLAGE, KANAYANNUR TALUK.

4. SOFY CORREYA, W/O. JOHN CORREYA @ JOHNNIE CORREYA,
AMBAT HOUSE, S.R.M.ROAD, EXTENSION, PACHALAM.P.O.,
KOCHI – 12.

5. M/S. SPINA SOFT SOLUTIONS (P) LTD.,
NORTH SQUARE, PARAMARA ROAD,
OPPOSITE TO TOWN HALL,
ERNAKULAM – 682 018, REPRESENTED BY THE
MANAGING DIRECTOR THOMAS GEORGE.

6. THOMAS GEORGE, S/O. LATE GEEVARGHESE GEORGE,
RESIDING AT MEENAMCHALIL HOUSE, SALEMPURAM (P.O.),
KOLLAM – 689 695.

7. THOMAS.T.E., S/O. EASO,
PYNUMMOOTTIL HOUSE, ASOKA ROAD,
KALOOR, KOCHI – 682 017.

BY ADV. SRI.M.PATHROSE MATHAI
SRI.SAJI VARGHESE
ADV. SHRI.BASANT BALAJI, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

OP NO. 28521/2001

ORDER ON CMP NO. 46391/2001 IN OP NO. 28521/2001

DISMISSED.

18/06/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF FORM 32 DATED 01/06/2007 ISSUED by the DEPARTMENT OF COMPANY AFFAIRS TO THE 5TH RESPONDENT.

P2 : COPY OF DEMAND NOTICE 17/09/2001 ISSUED TO THE 4TH RESPONDENT BY INFORMING THAT THE 2ND RESPONDENT AUTHORISED THE 3RD RESPONDENT TO RECOVER THE AMOUNT.

P3 : COPY OF MEMO DATED 28/09/1998 ISSUED FROM THE OFFICE OF CORPORATION OF COCHIN, KOCHI -11 TO THE PETITIONER.

RESPONDENT'S EXHIBITS

R1(a) : COPY OF PERSONAL GUARANTEE EXECUTED BY THE 4TH RESPONDENT.

//TRUE COPY//

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 28521 of 2001

Dated, this the 18th day of June, 2007

J U D G M E N T

Petitioner is challenging recovery proceedings for recovery of loan arrears due from 4th respondent, who is petitioner's wife. Senior counsel appearing for the 1st respondent submitted that 4th respondent was the director of the 5th respondent company and she executed personal guarantee for the loan availed from 1st respondent. If personal guarantee is executed, then of course recovery can be continued against 4th respondent. It is seen that 4th respondent has not come to this Court and only her husband has filed this O.P. Since the fourth respondent is the guarantor for the loan, this O.P. is closed leaving freedom to the respondents 1 to 3 to proceed for recovery against 4th respondent. If petitioner has any claim that movables of his house are attached, it is for him to file a claim petition under Sec. 46 of the RR Act with evidence before the District Collector. If any claim petition is filed, there will be direction to the District Collector to dispose of the same before selling the attached items.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg